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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,600

11/13/2003

Alan Reid

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05/19/2006

DALY, CROWLEY, MOFFORD & DURKEE, LLP  
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EXAMINER

CORRIGAN, JAIME W

ART UNIT

PAPER NUMBER

3767

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,600

Applicant(s)

REID, ALAN

Examiner

Jaime W. Corrigan

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-9, 11 and 17-23 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 10, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-25-04</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 2, 22 are objected to because of the following informalities: Claim 2 depends on claim 2 and claim 22 depends on claim 22. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-9, 11, 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Srivatsa (PN 5,338,306).

Regarding claim 1 Srivatsa discloses a housing having first (See Figure 3 (12)) and second portions (See Figure 1 (16), (18)) each having respective first and second ends, the second portion having a first (See Figures 3 (16), (18), Column 2 Lines 13-44) position in the use position and a second position (See Figure 4, Column 2 Lines 13-44) in the non-use position; a longitudinal member (See Figures 3-4 (14)) having first and second ends, the longitudinal member extending from the housing (See Figure 4 (14)) in the use position and being captured by the first housing portion in the non-use position (See Figure 3 (14)); and a needle (See Figure 4 (20)) extending from the device

in the use (See Figure 4 (20)) position and not extending from the device in the non-use (See Figure 3) position.

Regarding claim 2 Srivatsa discloses the first end of the longitudinal member (See Figure 3 (14)) is coupled to a first end of the second housing portion (See Figure 4 (16), (18)).

Regarding claim 3 Srivatsa discloses the second end of the first housing (See Figure 3 (12)) portion is coupled to the second end (See Figure 3 (16), (18)) of the second housing portion.

Regarding claim 4 Srivatsa discloses the second housing portion includes first (See Figure 4 (17)) and second (See Figure 4 (16)) pieces pivotably coupled to each other.

Regarding claim 7 Srivatsa discloses the longitudinal member (See Figure 3 (14)) includes a channel (See Figure 3 (14)) to enable longitudinal movement of the longitudinal member unimpeded by the needle.

Regarding claim 8 Srivatsa discloses the longitudinal member (See Figure 3 (14)) includes at least one locking (See Figure 3 (16), (18)) member.

Regarding claim 9 Srivatsa discloses the first housing portion includes at least one locking member (See Figures 3-4 (32)).

Regarding claim 11 Srivatsa discloses the housing (See Figure 3 (12)) includes a needle retaining member (See Figure 3 (10)) to secure the needle in position.

Regarding claim 17 Srivatsa discloses providing a housing (See Figure 3 (12), (16), (18)) for receiving a longitudinal member (See Figure 4 (14)) having first and second ends and a (See Figure 3 (14)) channel, the housing having first (See Figure 3 (12)) and second (See Figure 3 (16), (18)) portions each having first and second ends; connecting the first end of the first housing (See Figure 3 (12)) portion to the first end of the longitudinal member (See Figure 3 (14)); connecting the second end of the first housing (See Figure 3 (12)) portion to the second end of the second (See Figure 3 (16), (18)) housing portion; and affixing a needle (See Figure 3 (20), (22)) to the device extending from the first housing portion through the channel in the use position; wherein axial pressure at the first end of the longitudinal member (See Figure 3 (14)) in the use position forces the first (See Figure 3 (12)) and second (See Figure 3 (16), (18)) housing portions to pivot and extend from the first housing portion and envelop the needle (See Figure 4 (30)), Column 2 Lines 13-44) .

Regarding claim 18 Srivatsa discloses coupling first (See Figure 3 (32)) and second (See Figure 3 (32)) wing portions to the housing to receive finger pressure from a user to transition the device to the non-use position.

Regarding claim 19 Srivatsa discloses providing a locking (See Figure 3 (18)) mechanism on the longitudinal member (See Figure 3 (14)) to secure the device in the non-use position.

Regarding claim 20 Srivatsa discloses providing a locking (See Figure 4 (16), (18)) mechanism on the first (See Figure 4 (12)) housing portion to secure the device in the non-use position.

Regarding claim 21 Srivatsa discloses pressuring, in the use position, a longitudinal member (See Figure 4 (14)) having first and second ends and a channel (See Figure 4 (12), (14)) into a housing having first (See Figure 4 (12)) and second (See Figure 4 (16), (18)) portions each having first and second ends such that the first and second portions extend at a pivot point to envelop a needle (See Figure 4 (30)) of the device as the device transitions to the non-use position.

Regarding claim 22 Srivatsa discloses pressure the longitudinal member (See Figure 4 (14)) until a locking mechanism (See Figure 3 (18)) secures the device in the non-use position.

Regarding claim 23 Srivatsa discloses the pivot point (See Figure 4 ((10) ,(16), (18)) pushes the needle (See Figure 4 (30)) out a patient's body.

### ***Allowable Subject Matter***

Claims 5-6, 10, 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12-14 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 12 The claimed combination including the limitations directed to a housing having two portions, a longitudinal member having a channel, a locking member and a needle where two pieces of the second housing portion pivot when pressure is applied to the longitudinal member, is not disclosed nor rendered obvious over the art of record.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haber et al. (PN 5,135,507) and Burns (PN 5,445,619) disclose similar

Any inquiry concerning this communication from the Examiner should be directed to Examiner Jaime Corrigan whose telephone number is (571) 272-4858. The Examiner can normally be reached on Monday – Friday from 8:30 a.m. – 6:00 p.m. 2<sup>nd</sup> Friday off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kevin C. Sirmons, can be reached on (571) 272-4965. The fax number for this group is (571) 273-8300.

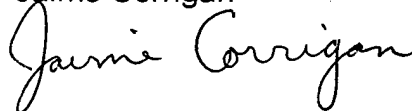
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3700.

JC

May 03, 2006

Jaime Corrigan



Patent Examiner  
Art Unit 3767

KEVIN SIRMONS  
PRIMARY EXAMINER





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